

14650
RECORDATION NO. FILED 1425

MAY 21 1985 -2 25 PM

INTERSTATE COMMERCE COMMISSION

May 9, 1985

Interstate Commerce Commission
12th Constitution Avenue
Washington, DC 20423

Attention: Mildred Lee, Room 2303

Dear Ms. Lee:

Enclosed please find a notarized copy of a rail car lease agreement dated November 11, 1984, between the Providence and Worcester Railroad Company, One Depot Square, Woonsocket, Rhode Island 02895 and First Security State Bank, Trust Division-Corporate Trust Department, 29 South Main Street, Salt Lake City, Utah 84111.

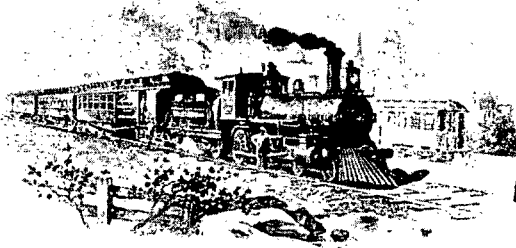
This agreement is for the lease of certain railroad equipment by P&W. Would you kindly record this document. Also enclosed is our check in the amount of \$10.00.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Heidi J. Seebauer
General Counsel

HJS/lsw
Enclosure



RECORDATION NO. 14650 Filed 1425

MAY 21 1985 - 2 25 PM

INTERSTATE COMMERCE COMMISSION

May 17, 1985

Interstate Commerce Commission
12th Constitution Avenue
Washington, DC 20423

Attention: Mildred Lee, Room 2303

Dear Ms. Lee:

Pursuant to our telephone conversation today, enclosed please find the original rail car lease agreement between the Providence and Worcester Railroad Company and First Security State Bank for recording.

Would you kindly forward the original recorded document to the following:

Providence and Worcester Railroad Company
P.O. Box 812
Old Saybrook, CT 06475
Attention: Lori S. White

Thank you for your assistance.

Very truly yours,

Lori S. White

Lori S. White
Secretary to Heidi J. Seebauer
General Counsel

/lsw
Enclosure

PROVIDENCE AND WORCESTER RAILROAD COMPANY

P.O. BOX 812, OLD SAYBROOK, CT 06475 203-399-5538

Interstate Commerce Commission

Washington, D.C. 20423

5/22/85

OFFICE OF THE SECRETARY

Providence And Worcester Railroad Co.

P.O.Box 812

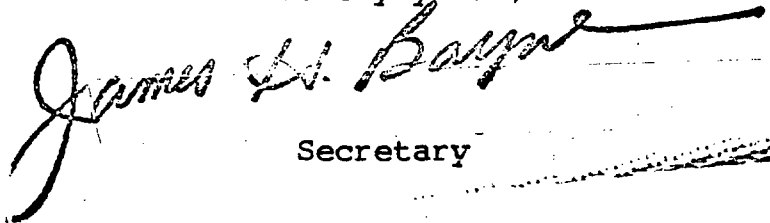
Old Saybrook, CT. 06475

Attn: Lori S. White

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/21/85 at 2:25pm and assigned re-recording number(s). 14650

Sincerely yours,

A handwritten signature in dark ink, appearing to read "James H. Bayne", with a long horizontal flourish extending to the right.

Secretary

Enclosure(s)

MAY 21 1985 - 2 25 PM

INTERSTATE COMMERCE COMMISSION

RAILCAR LEASE AGREEMENT

Agreement, dated as of November 27, 1984, by and between Providence and Worcester Railroad Company, a Rhode Island corporation ("Lessee"), as Lessee, and First Security State Bank, a Utah corporation, not individually but solely as Owner Trustee ("Lessor"), as Lessor under a Trust Agreement dated as of February 15, 1980 with the Provident Bank, a Ohio banking corporation in its capacity as Beneficial Owner.

1. Scope of Agreement

A. Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, railroad equipment of the type and description as set forth in Equipment Schedule 1 executed by the parties concurrently herewith and made a part of this Agreement, subject to the terms and conditions set forth herein.

B. The scheduled items of equipment are hereinafter called collectively the "Cars" and individually a "Car".

2. Term

This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The term of lease with respect to all of the Cars commences with respect to any Car on the date each Car is delivered to and accepted by the Providence and Worcester Railroad and terminates sixty (60) months after the last Car is delivered.

3. Supply Provisions

Lessor shall cause the Cars to be placed in service by shipment directly to an interchange point on the Providence and Worcester Railroad Company. The Cars are deemed accepted by Lessee when accepted in interchange by the Providence and Worcester Railroad Company.

4. Railroad Markings and Record Keeping

A. Lessor and Lessee agree that said Cars will be lettered with the railroad markings of Lessee at the cost and expense of Lessor. Lessee shall, at Lessor's expense, keep and maintain letters not less than one inch in height the words, "OWNERSHIP SUBJECT TO A CONDITIONAL SALE FINANCING FILED WITH THE INTERSTATE COMMERCE COMMISSION", with appropriate changes thereto as requested by Lessor.

B. At no cost to Lessor, Lessee shall during the term of this Agreement cause to be prepared for Lessor's signature and filing all documents relating to the registration, maintenance,

taxes (excluding income taxes), and record keeping functions involving the Cars. Such documents shall include (i) appropriate AAR documents including an application, if applicable, for relief from AAR Car Service Rules; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such other reports as may be required from time to time by the ICC and/or other regulatory agencies. Lessor will furnish to Lessee prior to delivery of the Cars all data necessary to register all the Cars in the Official Railway Equipment Register, and in the Universal Machine Language Equipment Register.

C. Lessee shall file or cause to be filed this lease with the ICC, at no expense to the Lessor. Each Car leased hereunder shall be registered by Lessee at no cost to Lessor in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Lessee shall, on behalf of Lessor, perform or cause to be performed all record keeping functions relating to the use of the Cars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation.

D. All record keeping performed by Lessee hereunder and all record of payments, charges and correspondence related to the Cars shall be separately recorded and maintained by Lessee in a form suitable for reasonable inspection by Lessor from time to time during regular Lessee business hours. Lessee shall supply Lessor with such information regarding the use of the Cars by Lessee on its railroad line as Lessor may reasonably request.

5. Maintenance and Taxes

A. Except as otherwise provided herein and to the extent that any other carrier might be responsible, Lessor will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during its lease term and any extension thereof, including but not limited to repairs, maintenance and servicing. Lessee shall inspect all Cars interchanged to it to insure that such Cars are in good working order and condition. Should any Car be damaged whereby such damage is billable to another carrier, Lessee or its agent shall be responsible for insuring such repairs are made at the expense of the responsible carrier. Lessee shall be responsible for the repair of any Car damaged due to wreck or derailment while in possession of or on the property of Lessee. In the event damage beyond repair or destruction of a Car occurs while on the Providence and Worcester Railroad Company, the Providence and Worcester Railroad Company will pay the Lessor the appropriate amount due in accordance with Rule 107 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules - Freight. Upon such payment, said damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that Payments

ceased. Lessee shall conform to all applicable laws and regulations including the AAR Code of Rules and FRA Freight Car Safety Standards.

B. Lessor shall make, or cause to be made, at its expense, all running repairs, alterations, modifications or replacement of parts, as shall be necessary to maintain the Cars in good operating condition throughout the term of the Agreement. Lessee shall not make any repairs, alterations, improvements or additions to the Cars without Lessor's prior written consent. If Lessee makes an alteration, improvement, or addition to any Car without Lessor's prior written consent, Lessee shall be liable to Lessor for any revenues lost due to such alteration and for any reduced value, utility or utilization of such Car. Title to any such alteration, improvement or addition shall be and remain with Lessor.

C. Lessor shall be responsible for all taxes, assessments and other governmental charges of whatsoever kind or character relating to each Car and on the lease, delivery or operation thereof commencing as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed during the lease term, except taxes on income or franchise taxes imposed on Lessee. Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars.

6. Lease Rental and Purchase

A. Lessee agrees to pay the following rent to Lessor for the use of the Cars:

(i) For the purpose of this Agreement, "Utilization" shall mean with respect to any period a fraction the numerator of which is (x) the aggregate number of Car Days for which payments are earned by the Lessee during such period, and the denominator of which is (y) the aggregate number of Car Days during such period. For the purpose of determining Utilization, "Car Day" shall mean one day on which one Car is on lease hereunder, commencing on the delivery of such Car to Lessee.

Lessee shall collect all payments, as agent for Lessor, made by other railroad companies for their use or handling of the Cars, including but not limited to car hire payments (which payments made to Lessee are hereinafter collectively referred to as "Payments") and mileage charges, and distribute them as follows:

a) Car Hire Payments - The Lessor shall receive all Payments collected by the Lessee for car hire earned.

b) Mileage Charges - The Lessor shall receive all mileage revenue with respect to the Cars collected by Lessee.

(ii) In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 107 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules-Freight the appropriate amount due as a result thereof will be paid to Lessor. Upon such payment, said damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that Payments ceased.

(iii) Lessee shall not, without the prior written consent of Lessor, grant any reclaims with respect to the Cars nor reduce the car hire charges applicable to the Cars. AAR Rule 15 reclaims would be excepted.

4/5 am
RPC B. During the term of this Agreement, if the net car hire revenue collected and paid to the Lessor in any calendar quarter is less than the appropriate revenue associated with 50% Utilization per Car as determined under the appropriate AAR Revenue Publication or if at any time during a calendar quarter the number of days that the Cars have not earned car hire payments is such as to make it mathematically certain that the Lessor's net car hire revenue cannot be equal to or greater than the appropriate revenue associated with 50% Utilization per Car or if revenues earned in excess of 50% Utilization during the previous calendar quarter are not sufficient to raise the current quarter's Utilization to 50% or above, Lessor may, at its option and upon not less than 30 days prior written notice to Lessee, terminate this Agreement as to all or such part of the Cars as Lessor shall determine. Failure to exercise this option shall not constitute a waiver of Lessor's rights hereunder to terms of this Agreement. If Lessor terminates this Agreement for insufficient utilization, Lessee shall remove Lessee's railroad markings from the Cars and place thereon such markings as may be designated by Lessor at Lessee's sole expense. After the removal and replacement of markings, Lessee shall, when requested by Lessor, load such Cars and deliver them to a connecting carrier for shipment. Lessee shall provide up to ninety (90) days free storage on its railroad tracks for Lessor of any terminated Car. Lessee, at its option, may make such payments to Lessor, so that the net car hire revenue equals 50% to the Lessor within thirty (30) days at the time of the accounting. If Lessee makes such payment when due, Lessor cannot terminate this agreement.

C. Lessee shall collect or cause to be collected all Payments with respect to the Cars in connection with the use of the Cars by other railroads and shall pay to Lessor all rental due Lessor within ten (10) days of the end of the month during which such Payments are collected. Payments along with an accounting of the basis for such payments shall be mailed monthly

to Lessor. Adjustments may be made within ninety (90) days after the end of the month during which such payments are earned.

D. The entering into and performance of this Agreement will not result in the creation of a lien, charges, security interest or other encumbrance upon any assets of Lessee other than payments which have been collected by Lessee but which have not been dispersed by Lessee pursuant to the terms of this Agreement.

7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement and in the manner and to the extent Cars are customarily used in the railroad freight business. Lessee's rights shall be subject and subordinated to the rights of any owner or secured party under any financing agreement entered into by Lessor in connection with the acquisition of Cars, i.e., upon notice to Lessee from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party and/or that the Cars be returned to such party.

Lessee agrees that the Cars will not be used or operated outside the continental U.S. except incidental use in Canada. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Lessor or Lessee, unless there has been an event of default, may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. With the exception of liens created by Lessor, Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars or any interest therein or in this Agreement or Schedule thereto. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

8. Default

A. The occurrence of any of the following events shall be event of default:

(i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within ten days after the date any such payment is due.

(ii) The breach by Lessee of any other term, covenant or condition of this Agreement, which is not cured within fifteen days after written notice.

(iii) The insolvency by Lessee, or the filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee or the appointment of any receiver or trustee to take possession of the properties of Lessee which is not dismissed within 60 days.

B. Upon the occurrence of any event of default, Lessor may, at its option:

(i) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Agreement (and Lessee agrees to bear Lessor's costs and expenses, including reasonable attorney's fees, in securing such enforcement) or to recover damages for the breach thereof; and/or

(ii) By notice in writing to Lessee terminate this Agreement, whereupon all rights of the Lessee to possess and use the Cars shall absolutely cease and terminate as though this Agreement had never been made, but the Lessee shall remain liable as hereinafter provided; and/or

(iii) By its agents enter upon the premises of the Lessee or other premises where any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess and enjoy the same free from any right of the Lessee or its successors or assigns, to use the Cars for any purpose whatsoever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Agreement may be then due or which may have accrued to the date of or subsequent to the date of such termination, and also to recover forthwith from the Lessee (1) any damages and expenses, including reasonable attorney's fees in addition thereto which the Lessor shall have sustained by reason of the

breach of any covenant, representation or warranty of this Agreement, and (2) all costs and expenses incurred in searching for, taking, removing, keeping and storing such Cars, and (3) all additional amounts owing by Lessee hereunder, whether as remittances, indemnification or otherwise.

The remedies in this Agreement provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such rights upon the continuation or recurrence of any such contingencies or similar contingencies.

9. Return of Equipment

Upon the termination of this Agreement, Lessee will surrender possession of such Cars to Lessor by delivering the same to Lessor on the track of Lessee at the sole expense and risk of Lessee. If such Cars are not on the railroad line of Lessee within sixty (60) days following termination of this Agreement, any cost of remarking, assembling, delivery, storing and transporting such Cars to Lessee's railroad line shall be borne by Lessee. If such Cars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at Lessee's expense and designation within five working days from notification by Lessor remove Lessee's railroad markings from the Cars and place thereon such markings as may be designated by Lessor. After the removal and replacement of markings, Lessee shall load such cars with freight and deliver them to a connecting carrier for shipment. Lessee shall provide up to ninety (90) days free storage on its railroad tracks for Lessor of any terminated Car. All Cars shall be uncontaminated and in good operating order, less reasonable wear and tear, suitable for interchange under load in accordance with the accepted interchange practices of the industry and the requirements of AAR Interchange Rules, Regulations of the United States Department of Transportation, the Interstate Commerce Commission and free of liens arising by, through or under Lessee.

10. Waiver of Indemnities and Warranties

A. Lessee shall defend, indemnify and hold Lessor harmless from and against any loss, damage, destruction or liability with respect to the Cars which is occasioned by the fault of Lessee, or which occurs while the Cars are in Lessee's

possession or control, or in those instances in which the interchange rules would assign responsibility for such loss, damage, destruction, or liability to Lessee.

B. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE CARS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE CARS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE CARS OR ANY COMPONENT THEREOF, NOR SHALL LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT) it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee.

11. Representation, Warranties and Covenants

Lessee represents, warrants and covenants that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power and authority and is duly qualified and authorized to do business wherever necessary to carry out its present business and operations and to perform its obligations under this Agreement.

(ii) The entering into and performance of this Agreement will not violate any judgement, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

(iii) There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee.

(iv) This Agreement has been duly authorized, executed and delivered by Lessee and constitutes a valid and binding obligation of Lessee enforceable in accordance with its terms.

12. Inspection

Lessor shall at any time during normal business hours have the right to enter the premises of the Lessee or any other party to the extent it may lawfully do so, where the Cars may be located for the purpose of inspecting and examining the Cars to

insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify Lessor of any accident connected with the malfunctioning or operation of the Cars. Lessee shall also notify Lessor in writing within five (5) days after any attachment, tax lien or other judicial process which shall attach to any Car. Lessee shall furnish to Lessor promptly upon its becoming available, a copy of its annual report.

13. Miscellaneous

A. This Agreement and the Equipment Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not without the prior written consent of Lessor assign this Agreement or any of its rights hereunder or sublease the Cars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by Lessor in connection with the acquisition of the Cars in order to confirm the financing party's interest in and to the Cars, this Agreement and Schedules, hereto and to confirm the subordination provisions contained in Section 7.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only, and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars except as a Lessee only.

D. This Agreement shall be governed by and construed according to the laws of the State of Ohio.

E. Unless otherwise specifically provided, any notices to be given under this lease or any other communications between parties shall be given by certified mail, postage prepaid, in the following manner:

a) Notices from Lessor to Lessee shall be sent to:

Providence and Worcester Railroad Company
One Depot Square
Woonsocket, Rhode Island 02895
Attention: Vice President and General Manager

or to such other address as Lessee may from time to time indicate by written notice to Lessor.

b) Notices from Lessee to Lessor shall be sent
to:

The Provident Bank
One East Fourth Street
Cincinnati, Ohio 45202
Attention: Philip Myers

First Security State Bank
Trust Division-Corporate Trust Department
29 South Main Street
Salt Lake City, Utah 84111

IN WITNESS WHEREOF, the parties hereto have executed this
Agreement as of the date first above written.

LESSEE

PROVIDENCE AND WORCESTER
RAILROAD COMPANY

LESSOR THE PROVIDENT BANK, AS OWNER
UNDER THAT TRUST AGREEMENT
DATED AS OF FEBRUARY 15, 1980 WITH
FIRST SECURITY STATE BANK, A UTAH
CORPORATION, NOT INDIVIDUALLY BUT
SOLELY AS OWNER TRUSTEE, PURSUANT TO
SECTION 1.03 THEREOF

By: Przemyslaw P. Chmarnowski

Title: VICE PRESIDENT & GM

Date: 2-11-85

By: [Signature]

Title: VP

Date: 2/20/85

EQUIPMENT SCHEDULE 1

Lessee hereby leases from Lessor the following railcars pursuant to that certain Lease Agreement dated as of November 27, 1984 by and between Providence and Worcester Railroad Company and First Security State Bank, a Utah corporation, not individually but solely as Owner Trustee.

<u>Description</u>	<u>Manufacturer</u>	<u>No. of Cars</u>	<u>Car Markings</u>
52'6", 5' high side 100 ton gondolas	Bethlehem	20	See attached.

LESSEE

PROVIDENCE AND WORCESTER
RAILROAD COMPANY

By: David P. Chmura

Title: Vice President & GM

Date: 2-11-85

LESSOR THE PROVIDENT BANK, AS OWNER
UNDER THAT TRUST AGREEMENT DATED AS OF
FEBRUARY 15, 1980 WITH
FIRST SECURITY STATE BANK, A UTAH
CORPORATION, NOT INDIVIDUALLY BUT
SOLELY AS OWNER TRUSTEE, PURSUANT TO
SECTION 1.03 THEREOF

By: [Signature]

Title: Dr. EVP

Date: 2/20/85

EQUIPMENT SCHEDULE I ATTACHMENT

Car Markings

PW 15002
15015
15035
15048
15054
15057
15065
15068
15075
15076
15095
15105
15106
15108
15112
15125
15127
15138
15139
15141

STATE OF CONNECTICUT)

)

COUNTY OF MIDDLESEX)

I, Lori S. White, a Notary Public in and for the State
and County aforesaid, do hereby certify that Ronald P. Chrzanowski and
 of Providence and Worcester , a Rhode Island
Railroad Company
corporation, whose names are subscribed to the foregoing instrument, appeared
before me this day in person and acknowledged that as such Vice President
and respectively, they signed, sealed and delivered the
aforesaid instrument and caused the corporate seal of said corporation to be
affixed thereto, pursuant to authority of its Board of Directors, as their free
and voluntary act and as the free and voluntary act and deed of said
corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 11th day of February

1985.

Lori S. White

Notary Public

LORI S. WHITE
NOTARY PUBLIC

MY COMMISSION EXPIRES MARCH 31, 1989

My commission expires

STATE OF CONNECTICUT:

COUNTY OF MIDDLESEX :

I, Lori S. White, a Notary Public in and for the State and County aforesaid, do hereby certify that Heidi J. Seebauer, General Counsel, of the Providence and Worcester Railroad Company, appeared before me this day in person and acknowledged that the enclosed copy of the Railcar Lease Agreement dated November 27, 1984, between Providence and Worcester Railroad Company and First Security State Bank is a true and accurate copy of the original document.

Given under my hand and notarial seal this 10th day of May, 1985.

Lori S. White
Notary Public

LORI S. WHITE
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1989